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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,123	02/04/2002	Kazuhiro Namba	F-7309	5982

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EXAMINER

BROCKETTI, JULIE K

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/067,123

Applicant(s)

NAMBA ET AL.

Examiner

Julie K. Brockett

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-9 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9 and 11-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 22, 2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 7-9, 11, 13, 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 8 and 9 state "...selection of pitching or pickoff throw as said pitching action is accomplished by different operations of the at least one button provided on said pointing device..." and "...selection of pitching or pickoff throw by the different operations of the at least one button provided on said pointing device". It is unclear how different operations can be performed to select one of two specific actions using only one button. It would appear as

though at least two buttons would have to be provided and the selection is based on which button is pressed.

Claim 11 states "...or pickoff throw by the operation the select one of said first and second button." This phrase is confusing especially "by the operation the select..." It appears as though Applicant meant to say "...by the operation of selecting..." Please clarify the claim so it is clear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-9, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by EA Sports "Triple Play 2000". "Triple Play 2000" is a game with a computer readable recording medium in which an executable game progress control program is recorded, and method to control a progress of a baseball game in which a player's team and a computer-controlled team or competitor's team alternately play offense and defense via a ball character used as a game medium (See "Triple Play 2000" Manual). The game progress control program comprises the following steps. A game image including a plurality of characters is displayed on a monitor screen of a computer (See "Triple Play

2000" Manual). The game machine receives input instructions based on directional moving operations of a pointing device with at least one button by the player. The entire pointing device is movable with respect to the monitor screen (See "Triple Play 2000" Manual). For example, the mouser is capable of being moved around. The baseball game is proceeded based on the input made by the game player (See "Triple Play 2000" Manual). The designation of instructions for the pitching action of a pitcher character is accomplished by the operation of the pointing device when the player's team is the defensive side, the designation of instructions for offensive action of a batter character is accomplished by operation of the pointing device when the game player's team is the offensive side, and selection of pitching or pickoff throw as said pitching action is accomplished by different operations of the at least one button provided on the pointing device (See "Triple Play 2000" Manual) [claims 1 & 8, 9, 11, 12]. For example, a different mouse button is used for a pickoff throw than for a regular pitch. The game "Triple Play 2000" further discloses that the designation of a base that is to be picked off is accomplished by the moving operation of the pointing device in cases where the pickoff throw is selected as the pitching action of the pitcher character. The game "Triple Play 2000" further discloses that the designation of the instruction for the pitching and the designation of the based to be picked off by the pickoff throw is accomplished by the moving operation of the pointing device before selection of pitching or pickoff throw by the different operations of the at least one button provided on

the pointing device (See "Triple Play 2000" Manual pg. 5) [claims 1, 8, 9, 11, 12]. The pointing device has at least two buttons including a first button and a second button. The selection of pitching or pickoff throw is accomplished by performing different button operations with respect to the first and second buttons (See "Triple Play 2000" Manual pg. 5) [claims 2, 11, 12]. The designation of instructions for the pitching indicating a type of pitch is accomplished by the moving operation of the pointing device in cases where pitching is selected as the pitching action of the pitcher character (See "Triple Play 2000" Manual pg. 5) [claim 3]. The designation of instructions for a course of the pitch is accomplished by the moving operation of the pointing device in cases where pitching is selected as the pitching action of the pitcher character (See "Triple Play 2000" Manual pg. 5) [claim 4]. The operation designating instructions for the course of the pitch is received after the pitching action of the pitcher character is initiated (See "Triple Play 2000" Manual pg. 5) [claim 5]. "Triple Play 2000" further teaches of a game server, which is accessible from a computer operated by a player via a network (See "Triple Play 2000" Manual pg. 32-34) [claim 8]. Parameters that define respective abilities are set in the pitcher character of the player's team. These parameters are altered in accordance with the pitching results (See "Triple Play 2000" Manual pg. 28-30) [claim 7]. For example, players accumulate statistics based on their pitching. Selection of a base for a pickoff throw as the pitching action is from among a throw to a first base, a second base or a third base and is selected by

a moving operation of the mouse respectively to a right direction, a top direction or a left direction followed by operation of another one of the first and the second buttons of the mouse (See "Triple Play 2000"). For example, the mouse is used to select the pitches to be thrown and/or the base to be picked off. A player moves the mouse to make the selection and then actuates one of the mouse buttons to send the selection to the gaming machine. The selection of the pickoff base is among a first base, a second base and a third base to which the pickoff throw is made and accomplished by a movement of the mouse to the right, top, and left direction (See "Triple Play 2000") [claim 12]. The mouse is also used as the input controller to select the pitch. "Triple Play 2000" teaches of using a mouse as the input controller for the where the pitching or pickoff throw is accomplished by operation of a selected corresponding one of the first and second buttons of the mouse. The input instructions are received based on directional moving operating and button operation of a mouse (See "Triple Play 2000") [claims 11 & 12]. The mouse is a pointing device in which it is moved in its entirety by the game player on a surface of a pad with respect to the monitor screen for designating both the pitching instruction to the pitcher character and the base to be picked off and whether the moving operating of the pointing device is received by the game progress control program is the pitching instruction or the base to be picked off depends upon a type of the button operation on the pointing device by the game player (See "Triple Play 2000" & "Game Over Game Reviews"). For

example, the instruction is not sent to the processor until the button is pressed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Triple Play 2000” in view of Okitsu, U.S. Patent No. 6,394,894 B1.

“Triple Play 2000” discloses all of the limitations mentioned above including selection of a type of pitch to be thrown as the pitching action is from among a first pitch type, a second pitch type and a third pitch type by moving a moving operation of the mouse. However, “Triple Play 2000” lacks in disclosing designating a pitch type by moving the mouse to a right direction, a top direction or a left direction followed by operation of one of the first and second buttons of mouse. Okitsu teaches of selecting a pitch type by moving the mouse to a right direction, a top direction or a left direction followed by operation of one of the first and second buttons of mouse (See Okitsu Fig. 7) [claim 12]. It would have been obvious to one of ordinary skill in the art at the time the invention was made that “Triple Play 2000” could allow a player to

select the pitch type by moving the mouse in a right, left or top direction. For example, menus can be to the right, left and top of where the pointer of the mouse is. By allowing a player to move the mouse in a direction to select a pitch, the game can know instantly what type of pitch the player wants to throw in the game. Right, left and top directions are simple mouse movements that everyone can understand and implement during game play.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Triple Play 2000”. Triple Play 2000 teaches that the pointing device has a first button and a second button and the moving operation of the pointing device is taken as the pitching instruction to the pitcher character when the first button is depressed by the game player after said moving operation of the pointing device is accomplished in the receiving step and the moving operation of the pointing device is taken as the instruction of the pickoff throw where the base to where the pickoff throw is made when the second button is depressed by the game player after moving operating of the pointing device is accomplished in the receiving step. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the moving operation of the pointing device be taken as the instruction of the pickoff throw where the base to which the pickoff throw is to be made when both the first and the second buttons are depressed by the game player after the moving operation of the pointing device is accomplished in the receiving step [claim 14]. “Triple Play 2000” has one button that sends the pitch and

another button that sends a pick off throw. Consequently, two different buttons are being used to select either a pickoff or a pitch. One skilled in the art who is using a mouse as in "Triple Play 2000" to control both the pitch and the pickoff would know that he could use both inputs on a mouse, i.e. two buttons, and use one to select the pitch and the other to select the pickoff so as to ensure that the player is selecting the action that they want. Furthermore, it is well known throughout the art to assign different actions to the different buttons on a mouse.

Response to Amendment

It has been noted that claims 1, 3, 4, 8, 9, 11 and 12 have been amended. New claims 13 and 14 have been added. Claim 6 has been cancelled.

Response to Arguments

Applicant's arguments filed March 22, 2005 have been fully considered but they are not persuasive.

Applicant argues that the claims reflect that the pitching type and the pick-off base are selected by use of a pointing device including how the buttons of a mouse are operated subsequently after the mouse movement operation changes the instructions corresponding to the same mouse movement. The Examiner notes that the limitations of the claims are anticipated by "Triple Play

2000". Applicant further argues that Okitsu does not select a base by pointing device movement. The Examiner agrees but notes that Triple Play 2000 teaches this limitation. Applicant argues that Triple Play 2000 does not disclose that the selection of the pitching type can also be done by movement of the mouse. The Examiner disagrees and notes that the newly supplied references including the manual for Triple Play 2000 and the reference from Game Over Game Reviews does mention that the pitching type is also selected through mouse movement. For example, a user moves the mouse to point to various pitches contained in a menu and presses the mouse button to select the pitch.

The Examiner further notes that "Triple Play 2000" and its manual were released in March of 1999 and "Triple Play 2001" was released in March of 2000.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K. Brockett whose telephone number is 571-272-4432. The examiner can normally be reached on M-Th 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Julie K Brockett". The signature is fluid and cursive, with a large, stylized initial "J".

Julie K Brockett
Primary Examiner
Art Unit 3713